



General Assembly

February Session, 2010

Raised Bill No. 5232

LCO No. 1038

01038_____HS_

Referred to Committee on Human Services

Introduced by:
(HS)

***AN ACT CONCERNING TRANSFER OR DISCHARGE OF
RESIDENTIAL CARE HOME PATIENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-535a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective July 1, 2010*):

3 (a) As used in this section, a "facility" means a residential care home,
4 as defined in section 19a-490, and an "advocate" means a person,
5 selected by a resident of the facility to represent his or her interests,
6 who the resident has identified, in a written notice to the facility, as the
7 person who will act as the resident's advocate. Advocate includes, but
8 shall not be limited to, persons associated with the Office of Protection
9 and Advocacy for Persons with Disabilities, the Office of the Long
10 Term Care Ombudsman and the Connecticut Legal Rights Project, Inc.

11 (b) A facility shall not transfer or discharge a resident from the
12 facility unless (1) the transfer or discharge is necessary to meet the
13 resident's welfare and the resident's welfare cannot be met in the
14 facility, (2) the transfer or discharge is appropriate because the
15 resident's health has improved sufficiently so the resident no longer

16 needs the services provided by the facility, (3) the health or safety of
17 individuals in the facility is endangered, (4) the resident has failed,
18 after reasonable and appropriate notice, to pay for a stay or a
19 requested service, at the facility, or (5) the facility ceases to operate. In
20 the case of an involuntary transfer or discharge, the resident and [, if
21 known, his] the resident's legally liable relative, guardian or
22 conservator, if known, and the resident's advocate, if any, shall be
23 given a thirty-day written notification which includes: [the] (A) The
24 reason for the transfer or discharge and notice of the right of the
25 resident to appeal a transfer or discharge by the facility pursuant to
26 subsection (d) of this section; (B) a statement advising the resident that
27 the resident has the right to select an advocate to act on the resident's
28 behalf in transfer and discharge proceedings; and (C) contact
29 information for the Office of Protection and Advocacy for Persons with
30 Disabilities, the Office of the Long Term Care Ombudsman and the
31 Connecticut Legal Rights Project, Inc. No resident shall be
32 involuntarily transferred or discharged from a facility if such transfer
33 or discharge presents imminent danger of death.

34 (c) The facility shall be responsible for assisting the resident in
35 finding appropriate placement. A discharge plan, prepared by the
36 facility, which indicates the resident's individual needs shall
37 accompany the patient.

38 (d) (1) For transfers or discharges effected on or after October 1,
39 1989, a resident or his legally liable relative, guardian or conservator,
40 and the resident's advocate, if any, who has been notified by a facility,
41 pursuant to subsection (b) of this section, that he will be transferred or
42 discharged from the facility may appeal such transfer or discharge to
43 the Commissioner of Public Health by filing a request for a hearing
44 with the commissioner [within ten days of] not later than fifteen
45 business days after the date of receipt of such notice. Such request shall
46 be deemed timely filed if postmarked not later than fifteen days after
47 receipt of such notice. Upon receipt of any such request, the
48 commissioner or his designee shall hold a hearing to determine

49 whether the transfer or discharge is being effected in accordance with
50 this section. Such a hearing shall be held [within] not later than seven
51 business days [of] after the date of receipt of such request and [a
52 determination made by] the commissioner or [his] the commissioner's
53 designee [within] shall issue a decision on the transfer or discharge not
54 later than twenty days [of] after the termination of the hearing. The
55 hearing shall be conducted in accordance with chapter 54. Any
56 advocate may initiate an appeal on behalf of a resident and may
57 represent the resident at any proceeding regarding the resident's
58 involuntary transfer or discharge.

59 (2) In an emergency the facility may request that the commissioner
60 make a determination as to the need for an immediate transfer or
61 discharge of a resident. Before making such a determination, the
62 commissioner shall notify the resident and, if known, his legally liable
63 relative, guardian or conservator, and the resident's advocate, if any.
64 The commissioner shall issue such a determination no later than seven
65 business days after receipt of the request for such determination. If, as
66 a result of such a request, the commissioner or his designee determines
67 that a failure to effect an immediate transfer or discharge would
68 endanger the health, safety or welfare of the resident or other
69 residents, the commissioner or his designee shall order the immediate
70 transfer or discharge of the resident from the facility. A hearing shall
71 be held in accordance with the requirements of subdivision (1) of this
72 subsection [within seven business days of] not later than seven
73 business days after the issuance of any determination issued pursuant
74 to this subdivision.

75 (3) Any involuntary transfer or discharge shall be stayed pending a
76 determination by the commissioner or his designee. Notwithstanding
77 any provision of [the general statutes] chapter 54, the determination of
78 the commissioner or his designee after a hearing shall be final and
79 binding upon all parties and not subject to any further appeal.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2010</i>	19a-535a
-----------	---------------------	----------

Statement of Purpose:

To allow nonattorney advocates to represent residential care home residents at hearings to appeal a transfer or discharge, to specify the time for filing documents related to a transfer or discharge, and to extend the time period to appeal a transfer or discharge.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]